

VZCZCXRO3092
RR RUEHCN RUEHVC
DE RUEHGH #0573/01 3580636
ZNR UUUUU ZZH
R 230636Z DEC 08
FM AMCONSUL SHANGHAI
TO RUEHC/SECSTATE WASHDC 7470
INFO RUEHOO/CHINA POSTS COLLECTIVE
RUEHGP/AMEMBASSY SINGAPORE 0201
RUEHKL/AMEMBASSY KUALA LUMPUR 0046
RHEHAAA/NSC WASHINGTON DC
RUEAUSA/DEPT OF HHS WASHINGTON DC
RUCPDO/DEPT OF COMMERCE WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHINGTON DC
RULSDMK/DEPT OF TRANSPORTATION WASHINGTON DC
RUEHGH/AMCONSUL SHANGHAI 8084

UNCLAS SECTION 01 OF 04 SHANGHAI 000573

SENSITIVE
SIPDIS

USTR FOR CHINA OFFICE - TSTRATFORD, AWINTER, TWINELAND, DKATZ;
IPR OFFICE - RBAE; AND OCG - TPOSNER
NSC FOR LOI, SHRIER

E.O. 12958: N/A

TAGS: [ETRD](#) [ELTN](#) [EWWT](#) [ASEC](#) [PREL](#) [KIPR](#) [CH](#)

SUBJECT: EAST CHINA VIEWS ON TRADE FACILITATION VERSUS TIGHTER
SECURITY

SHANGHAI 00000573 001.2 OF 004

¶1. (SBU) Summary: During a December 4-7 visit to Shanghai, U.S. Senate Finance Committee Trade Analyst Hun Quach met with Shanghai Customs and Entry-Exit Inspection and Quarantine Bureau (CIQ) officials, as well as held discussions with U.S. business representatives on a wide-range of customs-related issues. Shanghai Customs emphasized it attaches great importance to trade facilitation and welcomes working with the United States on such programs as the Container Security Initiative. However, it "resolutely" opposes the hundred percent screening mandated by The Security and Accountability For Every Port Act of 2006 (aka, the SAFE Port Act). CIQ officials said that better cooperation between countries is essential for better food and product safety. Although U.S. business representatives favorably viewed Shanghai Customs, they said inconsistency of enforcement and non-transparency of customs rules remain major problems for many U.S. businesses throughout China. They also oppose the hundred percent screening requirements required by the U.S. legislation, saying that it will likely be viewed as U.S. trade protectionism by the Chinese if implemented. End Summary.

Shanghai Customs Balancing Security and Trade Facilitation

¶2. (SBU) As part of a visit to Shanghai's Yangshan Deepwater Port, Quach met with Yangshan Customs Director Xu Zupei, Shanghai Customs Divisions of Legal Affairs Director Wu Huading, and Shanghai Customs Foreign Affairs Director Ding Ye. Xu outlined the work of Yangshan Customs, noting that the average clearance time for both imports and exports is 24 to 72 hours. Clearance on goods originating in the Yangshan Special Economic Zone is between 2.5 and 4 hours. Shanghai Customs uses a system of risk management in which both companies and commodities are classified according to a number of risk factors. Companies are divided into three categories according to their "credibility". Those that are deemed to have the highest degree of credibility are given faster clearance. These companies must operate under certain standards and sign agreements that they will uphold all Shanghai Customs regulations. For companies with bad records, the highest degree of scrutiny is given. The same system applies to goods as well, which are divided into five categories. The most "risky" shipments all require manual inspection. Xu emphasized that CIQ plays the leading role in food and product safety, while Customs focuses on smuggling, IP

infringement, and other such issues. Certain products, both for exports and imports, require CIQ certification. Customs releases the goods only after CIQ gives the green light.

Customs Pleased with Shanghai CSI Program

13. (SBU) On the U.S. Container Security Initiative (CSI), Xu said Shanghai Customs is very pleased with the program. Since the CSI program officially began in Shanghai in April 2005, Shanghai Customs has investigated 240 cases involving 550 containers. Shanghai Customs welcomes further work on the CSI program.

Shanghai Customs Active on IP

14. (SBU) Wu said Shanghai Customs is very active on IPR protection, noting that in 2007 Shanghai Customs was top in the nation for seizures of infringing goods (by value). Counterfeit consumer products are the main type of infringement detected by Shanghai Customs. Of the products that are investigated or seized, 90 percent of the cases are ex-officio. In response to a question on ways the United States could help Shanghai Customs, Wu responded that more training for Customs' staff would be very helpful.

Shanghai Customs "Resolutely" Opposes 100 Percent Scanning

15. In response to a question regarding Shanghai Customs' view on the hundred percent screening requirement mandated by the U.S. SAFE Port Act, Xu said it is impossible to comply and that Shanghai Customs "resolutely" opposes this requirement. First, full implementation would require a huge Chinese investment in

SHANGHAI 00000573 002.2 OF 004

equipment and human resources to maintain the program. The inspection would also significantly slow processing time and negatively impact trade facilitation. Such delays and costs would ultimately be passed on to the consumers. The requirement would also be viewed by the Chinese as a "significant trade barrier," and could ultimately hurt trade between China and the United States. (Note: Xu read from a prepared script when making his point on the hundred percent screening requirement. When asked by Congenoff about the origin of his script, he said his points reflected a consensus among Chinese Customs Districts. Shanghai Customs FAO Director Ding later confirmed Xu's text came from General Administration of Customs headquarters in Beijing. End note.)

Shanghai CIQ Welcomes Further Cooperation with the U.S.

16. (SBU) In a separate meeting, Shanghai CIQ Division Director for Supervision on Food Safety Chen Jianliang, explained CIQ's role in food and product safety and its relationship with Shanghai Customs. Imports and exports must first be declared to Customs; if the product falls into a certain category, stipulated by regulation, that requires quality inspection, it is then referred to CIQ. Shanghai CIQ's main responsibility is to inspect products based on safety, health and environmental regulations. It uses a sampling methodology based on the risk of each product. Shanghai CIQ has agreements in place with other CIQ units in East China to share testing services on products in which they specialize. According to Chen, non-CIQ "third parties" are also contracted by CIQ, but they only provide land and equipment for inspection. Shanghai CIQ uses its own licensed inspection staff to do the work. Certain standards are set for each product, but these standards can change from time to time. After CIQ issues a certificate of approval, it notifies Customs for clearance purposes.

17. (SBU) For quality and safety of exported goods, Chen said that Shanghai CIQ uses the importing country's standards for clearance. For example, if a product is being exported to the

United States and requires inspection by the United States, Shanghai CIQ bases its inspection on U.S. safety standards. On the question of transparency, Chen said that Shanghai CIQ publishes all its standards through a variety of sources, such as the internet. However, Chen acknowledged that different ports in China may have different procedures, which could cause variation in the interpretation of regulations by different CIQ units. However, CIQs do not report to municipal authorities; they report to the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) in Beijing, so technically all CIQs should have the same requirements. Chen concluded by saying more collaboration between governments on food and safety issues is important. It is also important to ensure manufactures are educated on product safety requirements.

AmCham: China Customs Lacks Transparency and Consistency

18. (SBU) In a meeting with a group of AmCham Shanghai business representatives, AmCham President Brenda Foster noted that AmCham Shanghai started an initiative two years ago with Shanghai Customs to help improve communication between the two sides. Foster reported that Shanghai Customs has been extremely responsive, and each year AmCham undertakes two or three programs where it can "make a difference" with Shanghai Customs. Business Development Director from Scandic Sourcing Warren Bock praised Shanghai Customs saying it is very direct and has set the stage for a smooth flow of imports and exports. Foster said that while AmCham member companies are generally pleased with Shanghai Customs, member companies dealing with many customs units throughout China are often frustrated by the general lack of transparency and consistency. Foster also said that a China Customs pre-clearance system for U.S. companies with a good reputation would be very helpful. However, these companies face a catch 22 - they would like a pre-clearance system, but are wary of providing information that may be compromised and given to their Chinese competitors. Companies have "no confidence" that their information will be kept confidential.

19. (SBU) Tyco Electronics Global Supply Chain Vice President

SHANGHAI 00000573 003.2 OF 004

Kevin Harris said one of the U.S. business community's biggest headaches is getting an official translation of changes in Customs rules and procedures. Often an official translation can take up to two years, which puts foreign companies at a disadvantage when trying to navigate Customs clearances. As a result, companies are left to do their informal translations and then check with Customs if they are in the ballpark. Harris also noted that Customs likes to "make examples" out of foreign companies, cracking down on them while going soft on domestic firms. According to Scandic Sourcing's Bock, Customs regulatory changes often take a long time to "trickle down" to the local level, and then there is often uneven enforcement. To get a favorable ruling on a customs issue, building "guanxi," or connections, with Customs officials is the most important thing.

Foster also confirmed that, in general, China Customs is very good at promulgating rules but bad at enforcement. In addition, most customs rules are "made in a vacuum," and people can only comment on the rules after they are made. "Flexibility comes later through interpretation," said Foster.

U.S. Companies' Views on U.S. Import Security Measures

10. (SBU) All the AmCham representatives at the meeting with Quach voiced concern over the hundred percent scanning requirement in the U.S. SAFE Port act. Foster said it would add tremendous costs to the bottom line for many U.S. companies in China and would add significantly to the customs processing time. Bock also noted that the policy would be perceived by the Chinese as a trade barrier and could precipitate some form of retaliation. On the U.S. Importer Security Filing and Additional Carrier Requirements (also known as the "10 Plus 2" requirements), which require additional data from U.S. importers and carriers, AmCham representatives were more positive. Werner

Global Logistics General Manager for China Juan Bautista said that his company is advising shippers, and they are "in the process of understanding" the requirements. Matson Navigation Asia Director Christa Stauffer said that there are concerns among some shippers on how to handle the data once they receive it. She also advised that it is important to have strict enforcement of the rule to get the full attention of shippers. Harris said that his company will have no problem in compliance, but foreign companies will have more of a struggle.

U.S. Logistics Reps on the Competitiveness of U.S. Ports

¶11. (SBU) In a separate meeting, two representatives from Intermarine and a representative of BNSF Railway echoed AmCham representatives' sentiments on beefed up security requirements. BNSF Railway International Services Chief Representative and Director Michelle Liu said she worried that the additional U.S. security requirements will hurt the competitiveness of U.S. ports. She noted that many shippers are already using Canadian and Mexican ports as a result of bottlenecks encountered at West Coast ports. However, if compliance with new U.S. regulations actually speeds up the clearance process, it could help the competitiveness of ports. On disparate treatment at Chinese ports, Intermarine Asia Managing Director Richard Seeg said the speed of clearance and valuation depends almost entirely on the relationship a company has developed with the port. As a result, companies tend to "shop" for the most favorable port and stick with those with which they have a good relationship. He added that this adds a great deal of unnecessary shipping around China. For example, a company will spend a great deal of money to send a shipment from northern to southern China just to get "more favorable customs treatment."

Ernst & Young: Customs Inconsistencies Hurts U.S. Business

¶12. (SBU) Ernst Young Partner Robert Smith, who in Shanghai specializes on customs and indirect tax issues, said he does a substantial amount of training on customs issues, and there is a significant misunderstanding by China Customs officials about WTO valuation rules. He concurred that inconsistent implementation of rules and valuation procedures is the top customs-related problem faced by importers and exporters. According to Smith, this problem is especially acute in second

SHANGHAI 00000573 004.2 OF 004

and third tier Chinese cities. He added that there are also insufficient resources devoted to valuation throughout China. Citing Shanghai Customs as an example, he said there are only 20 people who work on valuation, yet Shanghai Customs handles 25 percent of China's total trade volume. Significant differences in interpretation of customs rules largely occur because customs rules are often ambiguous and vague. And, more senior customs officials are unwilling to take responsibility for issuing clarifications. In addition, a ruling by one customs unit has no binding effect on other customs units, or even the same customs unit at a later period. He cited one example of a case that took over one and a half years and 50 meetings to get a ruling. Even then, an administrative interpretation had to be issued to understand the ruling.

¶13. (SBU) This report has been cleared by Senate Finance Committee Trade Analyst Hun Quach.
CAMP